

the regular rate at which he or she is employed.

2. Defendants shall not, contrary to Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), fail to make, keep and preserve adequate and accurate records of the persons employed by them, and the wages, hours and other conditions and practices of employment maintained by them as prescribed by regulations issued by the Administrator of the Employment Standards Administration, United States Department of Labor (29 C.F.R. Part 516).

3. It is further ORDERED, ADJUDGED and DECREED that the defendants be enjoined and restrained from withholding overtime compensation in the total amount of \$80,000.00, which the parties agree is due under the Act to defendants' employees named in Exhibit "A" for the period June 1, 2003 to May 31, 2005. To comply with this provision of this Judgment defendants have delivered to the plaintiff an initial payment of \$10,000.00 and shall deliver to the plaintiff the remaining \$70,000.00 (plus applicable interest) in twelve separate cashier's or certified checks payable to "Wage and Hour-Labor" mailed to U.S. DOL Wage Hour Division, Attn: Teronika Gaines, 525 Griffin, Suite 800, Dallas, Texas, 75202 in the amounts and the times herein set forth:

	Due Date	Amount Due
Payment 1	June 1, 2008	\$5,992.52
Payment 2	July 1, 2008	\$5,992.52
Payment 3	August 1, 2008	\$5,992.52
Payment 4	September 1, 2008	\$5,992.52
Payment 5	October 1, 2008	\$5,992.52
Payment 6	November 1, 2008	\$5,992.52
Payment 7	December 1, 2008	\$5,992.52
Payment 8	January 1, 2009	\$5,992.52
Payment 9	February 1, 2009	\$5,992.52
Payment 10	March 1, 2009	\$5,992.52
Payment 11	April 1, 2009	\$5,992.52
Payment 12	May 1, 2009	\$5,992.52
Total (including down payment)		81,910.24

From the proceeds of said payments, plaintiff shall make appropriate distribution to the employees named herein or to their estate if necessary, in the respective amounts due said employees, less income tax and social security deductions. In the event that any of said money cannot be distributed and paid over by plaintiff within the period of three (3) years after payment in full pursuant to this judgment because of inability to locate the proper persons or because of their refusal to accept such sums, the money shall be deposited with the Treasurer of the United States.

It is further ORDERED, that in the event of default by the defendant in the payment of any of the monthly installments, the total balance remaining unpaid shall then become due and payable and interest shall be assessed against such remaining unpaid balance at the rate provided by 28 U.S.C. § 1961 from the date of this judgment until the total amount is paid in full.

It is further ORDERED that the right of any and all of defendants' employees not specifically named in Exhibit A attached hereto to bring an action under Section 16(b) of the Fair Labor Standards Act 29 U.S.C. §216(b), shall be restored and that neither the filing of this action nor the entry of this judgment shall be a bar to such action and that the statute of limitations in such action shall be deemed tolled during the pendency of this action. The parties agree that the instant action is deemed to cover the period from June 1, 2003 to May 31, 2005.

The parties therefore agree that the filing of this action and provisions of this judgment shall not be interpreted so as to prejudice or preclude the legal rights of the Secretary of Labor or of any employees of defendants in any action filed by the Secretary of Labor or by such employee under the Act covering violations alleged to have occurred after May 31, 2005.

It is further ORDERED that each party agrees to bear his or her own attorneys' fees, costs and other expenses incurred by such party in connection with any stage of this proceeding, including, but

not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

SO ORDERED.

Signed this 2nd day of May, 2008.


ED KINKEADE
UNITED STATES DISTRICT JUDGE

BY:

/s Mitchell Zivin
MITCHELL ZIVIN
Individually

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Solicitor of Labor

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Acting Regional Solicitor

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